

EXHIBIT A
FIRST AMENDED COMPLAINT

ORIGINAL

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FILED

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CLERK OF THE SUPERIOR COURT
BY: M. BORNE, DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SHASTA

JOHN VANCE,
Plaintiff,

vs.

CONSTRUCTION & GENERAL LABORERS
LOCAL UNION NO. 185, Also Doing Business
As LiUNA! NORTHERN CALIFORNIA
DISTRICT COUNCIL OF LABORERS,
DOYLE RADFORD, JR.,
AND DOES 1 THROUGH 20,
Defendants.

Case No.: 196427

**FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

**1) HOSTILE WORK ENVIRONMENT
CONDUCT DIRECTED AT PLAINTIFF;
2) RETALIATION IN VIOLATION OF
GOVT. CODE § 12940(H);
3) FAILURE TO PREVENT
RETALIATION (GOVT. CODE § 12940(K))
4) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS; AND
5) NEGLIGENT INTENTIONAL
INFLICTION OF EMOTIONAL
DISTRESS.**

JURY TRIAL DEMANDED

Plaintiff, **JOHN VANCE** alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Plaintiff is ignorant of the true names and capacities, whether corporate, associate,

FIRST AMENDED COMPLAINT FOR DAMAGES

1 individual or otherwise of Defendants sued herein as DOES 1 through 20, inclusive, are
2 unknown to Plaintiff and are therefore fictitious and Plaintiff desires to be allowed, when the true
3 names of said Defendants are ascertained, to insert the same herein and in all subsequent
4 pleadings in this matter with the same force and effect as if the same had been correctly, properly
5 and truly written in the first instance.
6

7 That Plaintiff is informed and believes, and upon such information and belief alleges, that
8 the Defendants sued herein as DOES 1 through 20, inclusive, were, and in some manner are,
9 legally, negligently, statutorily, vicariously, or strictly liable in tort, were legally responsible in
10 some manner for the events and happenings herein referred to, and negligently, or otherwise,
11 caused injuries and damages proximately to Plaintiff as hereinafter alleged.
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13 2. That at all times herein mentioned, each of the Defendants was the agent, servant,
14 partner, joint venturer, franchisee and employee of each of the other Defendants, and in doing the
15 things hereinafter mentioned, was acting in the course and scope of the authority of said agency,
16 employment, service, partnership, joint venture and franchise, with the permission and consent of
17 their Co-Defendants.
18

19 3. Plaintiff is informed and believes that Defendant, **CONSTRUCTION & GENERAL**
20 **LABORERS LOCAL UNION 185, also doing business as LiUNA! NORTHERN**
21 **CALIFORNIA DISTRICT COUNCIL OF LABORERS** (hereinafter referred to as
22 **LABORERS LOCAL 185 and/or EMPLOYER**) is an organized union, existing under and
23 pursuant to the laws of the State of California.
24

25 4. Plaintiff is further informed and believes and upon such information and belief
26 alleges that Defendant, **DOYLE RADFORD, JR.** was acting within the course and scope of his
27 employment for Defendant, **LABORERS LOCAL 185** and further actively participated in the
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1 creation of the hostile work environment and the intentional infliction of emotional distress as set
2 forth herein.

3 5. That Plaintiff was an employee of Defendant, **LABORERS LOCAL 185** as a
4 business representative. Plaintiff was a business representative of **LABORERS LOCAL 185**
5 for approximately three years prior to his termination on January 13, 2020. Plaintiff has been a
6 union member prior to his termination for a total of 37 years.

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8 **FIRST CAUSE OF ACTION**
9 **HOSTILE WORK ENVIRONMENT DIRECTED AT PLAINTIFF (GOVERNMENT**
10 **CODE SECTION 12940(J))**
11 **As to Defendant, DOYLE RADFORD, JR. and DOES 1 through 20**

12 6. As a first, separate, and distinct cause of action, Plaintiff complains against
13 Defendant, **DOYLE RADFORD, JR.** and DOES 1 through 20, inclusive, and realleges all the
14 allegations contained in the complaint, and incorporates them by reference into this cause of
15 action as though fully set forth herein.

16 7. During the course of Plaintiff's employment with **LABORERS LOCAL 185**,
17 Plaintiff was subjected to unwanted harassing conduct for a number of reasons, inter alia due to
18 the fact that he was a Native American.

19 8. Plaintiff alleges that the harassing conduct was severe and pervasive.

20 9. That a reasonable person in Plaintiff's position, a member of Plaintiff's protected
21 group, to wit a Native American, would have considered the work environment to be hostile or
22 abusive.

23 10. That the Plaintiff did in fact consider the work to be hostile and/or abusive.

24 11. That the Defendant, **DOYLE RADFORD, JR.** as a supervisor knew or should
25 have known that his conduct was unlawful. Defendant, **LABORERS LOCAL 185** knew or
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1 should have known of the conduct of Defendant, **DOYLE RADFORD, JR.** was unlawful as
2 alleged and should have taken corrective immediate and appropriate action, which action was not
3 taken.

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5 12. That Plaintiff was harmed by the conduct of Defendant, **DOYLE RADFORD, JR.**
6 and said conduct was a substantial factor in bringing about his harm.

7 13. That Defendant, **DOYLE RADFORD, JR.'S** conduct during the course and scope
8 of his employment was a substantial factor in causing Plaintiff's harm.

9
10 14. That as a further direct and proximate result of Defendant, **DOYLE RADFORD**
11 **JR.'S** unlawful conduct, Plaintiff has sustained and continues to sustain extreme and severe
12 mental anguish and emotional distress. Plaintiff is thereby entitled to general and compensatory
13 damages in an amount to be proven at trial.

14 15. As a proximate result of Defendants' conduct and each of them, Plaintiff has
15 suffered substantial economic losses, including lost wages, future earnings, promotion
16 advantage, employee benefits and retirement benefits all to his detriment in an amount that will
17 be shown according to proof.

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19 16. As a further proximate result of the conduct of the Defendants, and each of them,
20 Plaintiff has suffered humiliation, embarrassment, shock, grief, surprise, nervousness, emotional
21 pain and distress, intimidation, anger, depression, diminished self-confidence, fear of further
22 employment opportunities, all to Plaintiff's damage in excess of the minimum jurisdiction of this
23 court.

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25 17. As a further direct and proximate result of Defendants' actions, Plaintiff has
26 incurred and will continue to incur attorney's fees and litigation costs in the prosecution of this
27 action. Plaintiff is entitled to reimbursement for those fees and costs in an amount according to
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1 proof pursuant to Government Code §12965.

2 18. Defendant, **DOYLE RADFORD, JR'S** conduct, as described above, was willful,
3 despicable, knowing and intentional. Accordingly, Plaintiff seeks an award of punitive and
4 exemplary damages in amount according to proof.
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6 **SECOND CAUSE OF ACTION**
7 **RETALIATION IN VIOLATION OF GOVT. CODE § 12940(H)**
8 **As to Defendant, LABORERS LOCAL 185 and DOES 1 through 20**

9 19. As a second, separate, and distinct cause of action, Plaintiff complains against
10 Defendant **EMPLOYER** and DOES 1 through 20, inclusive, and realleges all the allegations
11 contained in the complaint, and incorporates them by reference into this cause of action as
12 though fully set forth herein.

13 20. That the Plaintiff sent a letter to **LiUNA! NORTHERN CALIFORNIA**
14 **DISTRICT COUNCIL OF LABORERS** complaining of misappropriation of funds by
15 Defendant, **DOYLE RADFORD, JR.**
16

17 21. Shortly thereafter and on or about January 13, 2020, Plaintiff was discharged of
18 employment, which he held for three years at **LABORERS LOCAL 185.**

19 22. That Plaintiff's protected activity, i.e., whistleblowing, in disclosing
20 misappropriation of funds was the motivating reason for his termination.
21

22 23. That Plaintiff was harmed by the conduct of Defendant, **LABORERS LOCAL**
23 **185.**

24 24. That Defendant, **LABORERS LOCAL 185'S** conduct was a substantial factor in
25 causing Plaintiff's harm.

26 25. That as a further direct and proximate result of Defendant, **LABORERS LOCAL**
27 **185** unlawful conduct, Plaintiff has sustained and continues to sustain extreme and severe mental
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1 anguish and emotional distress. Plaintiff is thereby entitled to general and compensatory
2 damages in an amount to be proven at trial.

3 26. As a proximate result of Defendants' conduct and each of them, Plaintiff has
4 suffered substantial economic losses, including lost wages, future earnings, promotion
5 advantage, employee benefits and retirement benefits all to his detriment in an amount that will
6 be shown according to proof.

7
8 27. As a further proximate result of the conduct of the Defendants, and each of them,
9 Plaintiff has suffered humiliation, embarrassment, shock, grief, surprise, nervousness, emotional
10 pain and distress, intimidation, anger, depression, diminished self-confidence, fear of further
11 employment opportunities, all to Plaintiff's damage in excess of the minimum jurisdiction of this
12 court.

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14 28. As a further direct and proximate result of Defendants' actions, Plaintiff has
15 incurred and will continue to incur attorney's fees and litigation costs in the prosecution of this
16 action. Plaintiff is entitled to reimbursement for those fees and costs in an amount according to
17 proof pursuant to Government Code §12965.
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19 **THIRD CAUSE OF ACTION**
20 **FAILURE TO PREVENT RETALIATION (GOVT. CODE § 12940(k)**
21 **As to Defendant, LABORERS LOCAL 185 and DOES 1 through 20**

22 29. As a third, separate, and distinct cause of action, Plaintiff complains against
23 Defendant **EMPLOYER** and DOES 1 through 20, inclusive, and realleges all the allegations
24 contained in the complaint, and incorporates them by reference into this cause of action as
25 though fully set forth herein.

26 30. During the course of Plaintiff's employment, he became aware of unlawful
27 misappropriation of funds by supervisors at **LABORERS LOCAL 185**. Thereafter, Plaintiff
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1 sent a letter to the parent company of **EMPLOYER**, LiUNA! regarding the misappropriation of
2 funds.

3 31. Thereafter, Plaintiff was terminated as a direct result of his reporting the alleged
4 misappropriation of funds.
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6 32. That the Defendant, **DOYLE RADFORD, JR.** and DOES 1 – 20 failed to take
7 reasonable steps to prevent the retaliation against Plaintiff.

8 33. That Plaintiff was harmed by the conduct of Defendant, **LABORERS LOCAL**
9 **185**.

10 34. That Defendant, **EMPLOYER** failed to take reasonable steps to prevent retaliation
11 against Plaintiff was a substantial factor in causing his harm.
12

13 35 That as a further direct and proximate result of Defendant, **LABORERS LOCAL**
14 **185** unlawful conduct, Plaintiff has sustained and continues to sustain extreme and severe mental
15 anguish and emotional distress. Plaintiff is thereby entitled to general and compensatory
16 damages in an amount to be proven at trial.
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18 36. As a proximate result of Defendants' conduct and each of them, Plaintiff has
19 suffered substantial economic losses, including lost wages, future earnings, promotion
20 advantage, employee benefits and retirement benefits all to his detriment in an amount that will
21 be shown according to proof.
22

23 37. As a further proximate result of the conduct of the Defendants, and each of them,
24 Plaintiff has suffered humiliation, embarrassment, shock, grief, surprise, nervousness, emotional
25 pain and distress, intimidation, anger, depression, diminished self-confidence, fear of further
26 employment opportunities, all to Plaintiff's damage in excess of the minimum jurisdiction of this
27 court.
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1 38. As a further direct and proximate result of Defendants' actions, Plaintiff has
2 incurred and will continue to incur attorney's fees and litigation costs in the prosecution of this
3 action. Plaintiff is entitled to reimbursement for those fees and costs in an amount according to
4 proof pursuant to Government Code §12965.
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6 **FOURTH CAUSE OF ACTION**
7 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
8 **As to Defendant, EMPLOYER and DOES 1 through 20**

9 39. As a fourth, separate, and distinct cause of action, PLAINTIFF complains against
10 Defendant, **EMPLOYER** and DOES 1 through 20, inclusive, and realleges all the allegations
11 contained in the complaint, and incorporates them by reference into this cause of action as
12 though fully set forth herein.

13 40. Plaintiff alleges that the conduct of Defendant, **EMPLOYER, and DOYLE**
14 **RADFORD, JR.** was unlawful conduct toward Plaintiff, which was both outrageous and
15 reckless disregard of the probability of causing emotional distress to Plaintiff.
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17 41. That the Plaintiff is in fact suffering severe and extreme emotional distress. That
18 Defendant, **DOYLE RADFORD, JR.**, intended for his conduct to cause emotional distress.
19 Plaintiff alleges that Defendant, **DOYLE RADFORD, JR.** acted with reckless disregard with
20 the probability that Plaintiff would suffer emotional distress.
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22 42. That the proximate cause of Plaintiff's emotional distress was caused by the
23 conduct of Defendants' outrageous conduct and the failure of anyone on behalf of Defendant,
24 **EMPLOYER** to take remedial action in order to protect Plaintiff.

25 43. As a direct result of Defendant, **DOYLE RADFORD, JR.'S** conduct as alleged
26 hereinabove, Plaintiff has suffered severe emotional distress resulting in damages. Plaintiff
27 alleges that the conduct of Defendant, **DOYLE RADFORD, JR.** was a substantial factor in
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1 causing this severe emotional distress resulting in Plaintiff having to seek medical care and
2 attention and is suffering ongoing emotional distress.

3 44. As a proximate result of Defendants' conduct and each of them, Plaintiff has
4 suffered substantial economic losses, including lost wages, future earnings, promotion
5 advantage, employee benefits and retirement benefits all to his detriment in an amount that will
6 be shown according to proof.

7 45. As a further proximate result of the conduct of the Defendants, and each of them,
8 Plaintiff has suffered humiliation, embarrassment, shock, grief, surprise, nervousness, emotional
9 pain and distress, intimidation, anger, depression, diminished self-confidence, fear of further
10 employment opportunities, all to Plaintiff's damage in excess of the minimum jurisdiction of this
11 court.

12 46. As a further direct and proximate result of Defendants' actions, Plaintiff has
13 incurred and will continue to incur attorney's fees and litigation costs in the prosecution of this
14 action. Plaintiff is entitled to reimbursement for those fees and costs in an amount according to
15 proof pursuant to Government Code §12965.

16 47. Defendants conduct, as described above, was willful, despicable, knowing and
17 intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in amount
18 according to proof.

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23 **FIFTH CAUSE OF ACTION**
24 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
25 **As to All Defendants and DOES 1 through 20**

26 48. As a fifth, separate, and distinct cause of action, Plaintiff complains against
27 Defendant, **EMPLOYER** and Defendant, **DOYLE RADFORD, JR.** and DOES 1 through 20,

1 inclusive, and realleges all the allegations contained in the complaint, and incorporates them by
2 reference into this cause of action as though fully set forth herein.

3 49. Plaintiff alleges that the conduct of Defendant **DOYLE RADFORD, JR.** was
4 negligent.

5 50. That Plaintiff suffered serious emotional distress; and

6 51. That Defendant, **EMPLOYER** and Defendant **DOYLE RADFORD, JR.'S**
7 negligence was a substantial factor in causing Plaintiff's serious emotional distress.

8 52. Plaintiff's emotional distress includes suffering, anguish, fright, horror,
9 nervousness, grief, anxiety, worry, shock, humiliation, and shame. Serious emotional distress
10 exists if an ordinary, reasonable person would be unable to cope with it.

11 53. As a proximate result of Defendants' conduct and each of them, Plaintiff has
12 suffered substantial economic losses, including lost wages, future earnings, promotion
13 advantage, employee benefits and retirement benefits all to his detriment in an amount that will
14 be shown according to proof.

15 54. As a further proximate result of the conduct of the Defendants, and each of them,
16 Plaintiff has suffered humiliation, embarrassment, shock, grief, surprise, nervousness, emotional
17 pain and distress, intimidation, anger, depression, diminished self-confidence, fear of further
18 employment opportunities, all to Plaintiff's damage in excess of the minimum jurisdiction of this
19 court.

20 55. As a further direct and proximate result of Defendants' actions, Plaintiff has
21 incurred and will continue to incur attorney's fees and litigation costs in the prosecution of this
22 action. Plaintiff is entitled to reimbursement for those fees and costs in an amount according to
23 proof pursuant to Government Code §12965.

1 56. Defendants conduct, as described above, was willful, despicable, knowing and
2 intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in amount
3 according to proof.

4 WHEREFORE, Plaintiff, **JOHN VANCE**, prays for judgment against Defendants, and
5 each of them, as follows:
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7 1. For compensatory damages, including loss of wages, promotion opportunities,
8 employment benefits, vacation benefits, medical bills and other special and general damages
9 according to proof but in excess of the jurisdictional threshold of this Court, according to proof;
10 legal rate, according to proof;
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12 2. For mental and emotional distress, according to proof;

13 3. For an award of interest, including prejudgment interest, at the legal rate, according
14 to proof;

15 4. For reasonable attorneys' fees pursuant to Government Code Section 12965(b) and
16 all other applicable statutes;
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18 5. For punitive and exemplary damages in an amount sufficient to punish and deter
19 Defendants' outrageous conduct;

20 6. For costs of suit incurred herein; and

21 7. For such other and further relief as the Court deems just and proper.
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23 **JURY TRIAL DEMANDED**

24 PLAINTIFF demands trial of all issues by jury.


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3 DATED: December 29, 2020
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6 T. JAMES FISHER
7 Attorney for Plaintiff
8 JOHN VANCE
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